

SECOND REGULAR SESSION

# SENATE BILL NO. 656

93RD GENERAL ASSEMBLY

INTRODUCED BY SENATOR NODLER.

Pre-filed December 1, 2005, and ordered printed.

TERRY L. SPIELER, Secretary.

3691S.011

## AN ACT

To repeal sections 173.005 and 173.616, RSMo, and to enact in lieu thereof two new sections relating to out-of-state public institutions of higher education.

*Be it enacted by the General Assembly of the State of Missouri, as follows:*

Section A. Sections 173.005 and 173.616, RSMo, are repealed and two new  
2 sections enacted in lieu thereof, to be known as sections 173.005 and 173.616, to  
3 read as follows:

173.005. 1. There is hereby created a "Department of Higher Education",  
2 and the division of higher education of the department of education is abolished  
3 and all its powers, duties, functions, personnel and property are transferred as  
4 provided by the Reorganization Act of 1974, Appendix B, RSMo.

5 2. The commission on higher education is abolished and all its powers,  
6 duties, personnel and property are transferred by type I transfer to the  
7 "Coordinating Board for Higher Education", which is hereby created, and the  
8 coordinating board shall be the head of the department. The coordinating board  
9 shall consist of nine members appointed by the governor with the advice and  
10 consent of the senate, and not more than five of its members shall be of the same  
11 political party. None of the members shall be engaged professionally as an  
12 educator or educational administrator with a public or private institution of  
13 higher education at the time appointed or during his term. The other  
14 qualifications, terms and compensation of the coordinating board shall be the  
15 same as provided by law for the curators of the University of Missouri. The  
16 coordinating board may, in order to carry out the duties prescribed for it in  
17 subsections 1, 2, 3, 7, and 8 of this section, employ such professional, clerical and  
18 research personnel as may be necessary to assist it in performing those duties,

**EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.**

19 but this staff shall not, in any fiscal year, exceed twenty-five full-time equivalent  
20 employees regardless of the source of funding. In addition to all other powers,  
21 duties and functions transferred to it, the coordinating board for higher education  
22 shall have the following duties and responsibilities:

23 (1) The coordinating board for higher education shall have approval of  
24 proposed new degree programs to be offered by the state institutions of higher  
25 education;

26 (2) The coordinating board for higher education may promote and  
27 encourage the development of cooperative agreements between Missouri public  
28 four-year institutions of higher education which do not offer graduate degrees and  
29 Missouri public four-year institutions of higher education which do offer graduate  
30 degrees for the purpose of offering graduate degree programs on campuses of  
31 those public four-year institutions of higher education which do not otherwise  
32 offer graduate degrees. Such agreements shall identify the obligations and duties  
33 of the parties, including assignment of administrative responsibility. Any  
34 diploma awarded for graduate degrees under such a cooperative agreement shall  
35 include the names of both institutions inscribed thereon. Any cooperative  
36 agreement in place as of August 28, 2003, shall require no further approval from  
37 the coordinating board for higher education. Any costs incurred with respect to  
38 the administrative provisions of this subdivision may be paid from state funds  
39 allocated to the institution assigned the administrative authority for the  
40 program. The provisions of this subdivision shall not be construed to invalidate  
41 the provisions of subdivision (1) of this subsection;

42 (3) In consultation with the heads of the institutions of higher education  
43 affected and against a background of carefully collected data on enrollment,  
44 physical facilities, manpower needs, institutional missions, the coordinating board  
45 for higher education shall establish guidelines for appropriation requests by those  
46 institutions of higher education; however, other provisions of the Reorganization  
47 Act of 1974 notwithstanding, all funds shall be appropriated by the general  
48 assembly to the governing board of each public four-year institution of higher  
49 education which shall prepare expenditure budgets for the institution;

50 (4) No new state-supported senior colleges or residence centers shall be  
51 established except as provided by law and with approval of the coordinating board  
52 for higher education;

53 (5) The coordinating board for higher education shall establish admission  
54 guidelines consistent with institutional missions;

55 (6) The coordinating board shall establish policies and procedures for  
56 institutional decisions relating to the residence status of students;

57 (7) The coordinating board shall establish guidelines to promote and  
58 facilitate the transfer of students between institutions of higher education within  
59 the state;

60 (8) The coordinating board shall collect the necessary information and  
61 develop comparable data for all institutions of higher education in the state. The  
62 coordinating board shall use this information to delineate the areas of competence  
63 of each of these institutions and for any other purposes deemed appropriate by  
64 the coordinating board;

65 (9) Compliance with requests from the coordinating board for institutional  
66 information and the other powers, duties and responsibilities, herein assigned to  
67 the coordinating board, shall be a prerequisite to the receipt of any funds for  
68 which the coordinating board is responsible for administering; [and]

69 (10) If any institution of higher education in this state, public or private,  
70 willfully fails or refuses to follow any lawful guideline, policy or procedure  
71 established or prescribed by the coordinating board, or knowingly deviates from  
72 any such guideline, or knowingly acts without coordinating board approval where  
73 such approval is required, or willfully fails to comply with any other lawful order  
74 of the coordinating board, the coordinating board may, after a public hearing,  
75 withhold or direct to be withheld from that institution any funds the  
76 disbursement of which is subject to the control of the coordinating board, or may  
77 remove the approval of the institution as an "approved institution" within the  
78 meaning of section 173.205, but nothing in this section shall prevent any  
79 institution of higher education in this state from presenting additional budget  
80 requests or from explaining or further clarifying its budget requests to the  
81 governor or the general assembly[.]; and

82 (11) (a) As used in this subdivision, the term "out-of-state public  
83 institution of higher education" shall mean an education institution  
84 located outside of Missouri that:

85 a. Is controlled or administered directly by a public agency or  
86 political subdivision;

87 b. Receives appropriations for operating expenses directly or  
88 indirectly from the general assembly of a state other than Missouri;

89 c. Provides a postsecondary course of instruction at least six  
90 months in length leading to or directly creditable toward a degree or

91 certificate;

92 d. Meets the standards for accreditation by an accrediting body  
93 recognized by the United States Department of Education or any  
94 successor agency;

95 e. Permits faculty members to select textbooks without influence  
96 or pressure by any religious or sectarian source.

97 (b) No later than December 31, 2006, the coordinating board shall  
98 promulgate rules regarding:

99 a. The board's approval process of proposed new degree  
100 programs and course offerings by any out-of-state public institutions of  
101 higher education seeking to offer degree programs or course work  
102 within the state of Missouri; and

103 b. The board's approval process of degree programs and course  
104 offering by any out-of-state public institutions of higher education that,  
105 prior to July 1, 2007, were approved by the board to operate a school  
106 in compliance with the provisions of sections 173.600 to 173.618;  
107 The rules shall ensure that, as of July 1, 2007, all out-of-state public  
108 institutions seeking to offer courses within the state of Missouri are  
109 evaluated in a manner similar to Missouri public higher education  
110 institutions. Such out-of-state public institutions shall be held to  
111 standards no lower than the standards established by the board for  
112 Missouri institutions of higher education under this section. Beginning  
113 July 1, 2007, the board shall revoke all certificates of approval  
114 previously granted to out-of-state public institutions of higher  
115 education under sections 173.600 to 173.618. Any such schools wishing  
116 to continue operating within this state must be approved by the board  
117 under the rules promulgated under this subdivision. Any rule or  
118 portion of a rule, as that term is defined in section 536.010, RSMo, that  
119 is created under the authority delegated in this section shall become  
120 effective only if it complies with and is subject to all of the provisions  
121 of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This  
122 section and chapter 536, RSMo, are nonseverable and if any of the  
123 powers vested with the general assembly pursuant to chapter 536,  
124 RSMo, to review, to delay the effective date, or to disapprove and annul  
125 a rule are subsequently held unconstitutional, then the grant of  
126 rulemaking authority and any rule proposed or adopted after August  
127 28, 2006, shall be invalid and void.

128           3. The coordinating board shall meet at least four times annually with an  
129 advisory committee who shall be notified in advance of such meetings. The  
130 coordinating board shall have exclusive voting privileges. The advisory  
131 committee shall consist of thirty-two members, who shall be the president or  
132 other chief administrative officer of the University of Missouri; the chancellor of  
133 each campus of the University of Missouri; the president of each state-supported  
134 four-year college or university, including Harris-Stowe State University, Missouri  
135 Southern State University, Missouri Western State University, and Lincoln  
136 University; the president of Linn State Technical College; the president or  
137 chancellor of each public community college district; and representatives of each  
138 of five accredited private institutions selected biennially, under the supervision  
139 of the coordinating board, by the presidents of all of the state's privately  
140 supported institutions; but always to include at least one representative from one  
141 privately supported junior college, one privately supported four-year college, and  
142 one privately supported university. The conferences shall enable the committee  
143 to advise the coordinating board of the views of the institutions on matters within  
144 the purview of the coordinating board.

145           4. The University of Missouri, Lincoln University, and all other  
146 state-governed colleges and universities, chapters 172, 174 and 175, RSMo, and  
147 others, are transferred by type III transfers to the department of higher education  
148 subject to the provisions of subsection 2 of this section.

149           5. The state historical society, chapter 183, RSMo, is transferred by type  
150 III transfer to the University of Missouri.

151           6. The state anatomical board, chapter 194, RSMo, is transferred by type  
152 II transfer to the department of higher education.

153           7. All the powers, duties and functions vested in the division of public  
154 schools and state board of education relating to community college state aid and  
155 the supervision, formation of districts and all matters otherwise related to the  
156 state's relations with community college districts and matters pertaining to  
157 community colleges in public school districts, chapters 163 and 178, RSMo, and  
158 others, are transferred to the coordinating board for higher education by type I  
159 transfer. Provided, however, that all responsibility for administering the  
160 federal-state programs of vocational-technical education, except for the 1202a  
161 post-secondary educational amendments of 1972 program, shall remain with the  
162 department of elementary and secondary education. The department of  
163 elementary and secondary education and the coordinating board for higher

164 education shall cooperate in developing the various plans for vocational-technical  
165 education; however, the ultimate responsibility will remain with the state board  
166 of education.

167 8. The administration of sections 163.171 and 163.181, RSMo, relating to  
168 teacher-training schools in cities, is transferred by type I transfer to the  
169 coordinating board for higher education.

170 9. All the powers, duties, functions, personnel and property of the state  
171 library and state library commission, chapter 181, RSMo, and others, are  
172 transferred by type I transfer to the coordinating board for higher education, and  
173 the state library commission is abolished. The coordinating board shall appoint  
174 a state librarian who shall administer the affairs of the state library under the  
175 supervision of the board.

176 10. All the powers, duties, functions, and properties of the state poultry  
177 experiment station, chapter 262, RSMo, are transferred by type I transfer to the  
178 University of Missouri, and the state poultry association and state poultry board  
179 are abolished. In the event the University of Missouri shall cease to use the real  
180 estate of the poultry experiment station for the purposes of research or shall  
181 declare the same surplus, all real estate shall revert to the governor of the state  
182 of Missouri and shall not be disposed of without legislative approval.

173.616. 1. The following schools, training programs, and courses of  
2 instruction shall be exempt from the provisions of sections 173.600 to 173.618:

3 (1) A public institution;

4 (2) Any college or university represented directly or indirectly on the  
5 advisory committee of the coordinating board for higher education as provided in  
6 subsection 3 of section 173.005;

7 (3) An institution that is certified by the board as an "approved private  
8 institution" under subdivision (2) of section 173.205;

9 (4) A not-for-profit religious school that is accredited by the American  
10 Association of Bible Colleges, the Association of Theological Schools in the United  
11 States and Canada, or a regional accrediting association, such as the North  
12 Central Association, which is recognized by the Council on Postsecondary  
13 Accreditation and the United States Department of Education;

14 **(5) Beginning July 1, 2007, all out-of-state public institutions of**  
15 **higher education, as such term is defined in subdivision (11) of**  
16 **subsection 2 of section 173.005.**

17 2. The coordinating board shall exempt the following schools, training

18 programs and courses of instruction from the provisions of sections 173.600 to  
19 173.618:

20 (1) A not-for-profit school owned, controlled and operated by a bona fide  
21 religious or denominational organization which offers no programs or degrees and  
22 grants no degrees or certificates other than those specifically designated as  
23 theological, bible, divinity or other religious designation;

24 (2) A not-for-profit school owned, controlled and operated by a bona fide  
25 eleemosynary organization which provides instruction with no financial charge  
26 to its students and at which no part of the instructional cost is defrayed by or  
27 through programs of governmental student financial aid, including grants and  
28 loans, provided directly to or for individual students;

29 (3) A school which offers instruction only in subject areas which are  
30 primarily for avocational or recreational purposes as distinct from courses to  
31 teach employable, marketable knowledge or skills, which does not advertise  
32 occupational objectives and which does not grant degrees;

33 (4) A course of instruction, study or training program sponsored by an  
34 employer for the training and preparation of its own employees;

35 (5) A course of study or instruction conducted by a trade, business or  
36 professional organization with a closed membership where participation in the  
37 course is limited to bona fide members of the trade, business or professional  
38 organization, or a course of instruction for persons in preparation for an  
39 examination given by a state board or commission where the state board or  
40 commission approves that course and school;

41 (6) A school or person whose clientele are primarily students aged sixteen  
42 or under.

43 3. A school which is otherwise licensed and approved under and pursuant  
44 to any other licensing law of this state shall be exempt from sections 173.600 to  
45 173.618, but a state certificate of incorporation shall not constitute licensing for  
46 the purpose of sections 173.600 to 173.618.

47 4. Any school, training program or course of instruction exempted herein  
48 may elect by majority action of its governing body or by action of its director to  
49 apply for approval of the school, training program or course of instruction under  
50 the provisions of sections 173.600 to 173.618. Upon application to and approval  
51 by the coordinating board, such school training program or course of instruction  
52 may become exempt from the provisions of sections 173.600 to 173.618 at any  
53 subsequent time, except the board shall not approve an application for exemption

54 if the approved school is then in any status of noncompliance with certification  
55 standards and a reversion to exempt status shall not relieve the school of any  
56 liability for indemnification or any penalty for noncompliance with certification  
57 standards during the period of the school's approved status.

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